words the mere removal of the inhabitants cannot make the premises which are irremediably defective any fitter for human habitation.

It does not appear to me therefore that *under this section* it is open to the Municipality to order the removal of the inhabitants of a dwelling house as a means of abating a nuisance. such nuisance being due solely to a faulty construction of the house which is admittedly irremediable; and which in this case is a construction which it should be parenthetically observed is one to which the Municipality itself gave countenance a few years ago.

To order all the inhabitants to leave the house under this section is to give the Municipality the power which is expressly conferred upon the Police Court under section 227 of the Ordinance which provides that *where there is non-compliance with a nuisance notice* the Commissioners may apply to the Police Court for a nuisance order; such nuisance order *may* be a closing order prohibiting a dwelling house from being used for human habitation but is only to be made when it is proved to the satisfaction of a Police Court that by reason of a nuisance such dwelling house is unfit for human habitation. The fact is that in their proper construction all provisions of this part of the Municipal Ordinance which deal with nuisances capable of being summarily dealt with contemplate only nuisances which are capable of abatement by the person charged and where as in this case the position is that owing to structural defects a house dependent upon and connected with other houses of similarly faulty character is regarded as unfit for human habitation and is on that account irremediably defective it does not appear to me that it is open to the Municipality to attempt to deal with it separately and individually under the provisions of that part of the Ordinance which relates to the abatement of nuisances.

When one formulates this proposition one is at once faced with this question: what is the Municipality then to do if it is desired to deal with a single house which is constructionally irremediably insanitary and consequently injurious to health.

If a single house is in no way dependent for its defects upon other houses it is difficult to conceive a case in which it would not be possible effectively to render it fit for human habitation and it could therefore be dealt with under section 217.

But if the house is dependent for its defects upon one or more other houses and the irremediably faulty circumstances of its structure are interwoven with the presence and I might add of the also faulty construction of those other houses it appears to me to deal with such cases the Municipality must perforce adopt one of those other courses which I have indicated above.

The reason is this: It is not really possible to disassociate the irremediably defective structure of the one house from the composite structure of the block or of the other house or houses; the fault and the nuisance do not lie alone with the one house but conjointly with the block or other house or houses.

To attempt to deal with one alone or with each singly is to endeavour to place upon each the burden not only of its own defects but of the combined defects occasioned by the presence of the other adjacent houses.

When as in a case such as this the construction not only of this house but of the block and of each house in the block is faulty but was approved by the Municipality comparatively recently it would be still more manifestly contrary to the spirit of the Municipal Ordinance that the matter could be dealt with under those sections which relate to the abatement of nuisances.

The appeal must therefore be allowed.

*Appeal allowed.*

Solicitor for (Appellant)—*M. C. Johannes.*

Solicitors for (Respondent)—*Drew & Napier.*

---

[ORIGINAL CIVIL JURISDICTION]

SHAW, C.J.

May 24, 1922.

## ABRAHAM FRANKEL

v.

## CHAIRMAN OF SINGAPORE RURAL BOARD

[SINGAPORE RATING APPEAL No. 8 of 1922]

*Ordinance No. 135 (Municipal) S. 3—Definition of Annual Value—land "suitable for building purposes or capable of being developed for such purposes."*

In S. 3 of Ordinance No. 135 (Municipal) and the definition of Annual Value therein contained, the words "suitable for building purposes or capable of being developed for such purposes" if taken in their fullest sense would embrace practically all land in the Colony not covered with water and so extensive a meaning cannot properly be given to them.

The expression probably means land suitable for building on or development as a fair commercial speculation in this sense that if put up for sale in small lots, purchasers would be found for it who would buy with a view to either building on it at once themselves or to selling at a profit to others who would.

Rating Appeal.

*Page* for Appellant.

*Langley* (Solicitor-General) for Respondent.

The facts and arguments sufficiently appear from the Judgment.

*Cur. Ad. Vult.*

**SHAW, C.J.**—This is an appeal from an assessment made by the Commissioners of the Rural Board on certain land, being part of the Siglap Estate the property of the appellant, lying within an area defined by the Rural Board under Section 3 of Ordinance No. 135 (Municipal) with the sanction of the Governor in Council for the purpose of assessment of the "Annual Value" of Vacant land suitable for building purposes. The Estate is situated on the north and south of the East Coast Road between 6¼ and 6¾ milestones and, excluding a small portion which is now occupied by substantial building, it has been assessed for payment of a rate of $1,900. Of this $1,500 is the assessment in respect of 100 acres which is an assessment made on the footing of its being "suitable for building purposes or capable of being developed for such purposes" within the meaning of section 3 of the Ordinance, and the remaining $400 is assessed on the remainder of the Estate within the defined area as agricultural land.

It is in respect of the $1,500 assessed on the land as building land that the appeal is brought, the appellant contending that no part of the Estate can properly be called land suitable for building purposes or capable of being developed for such purposes within the meaning of the Ordinance and, alternatively, that if it is it has been rated too highly. It was further contended that much of the 100 acres so assessed cannot come within the definition as it already has building upon it. Besides taking evidence as to the condition of this land and the adjoining land, I have personally inspected the property and the neighbourhood. On the sea front, along which the property extends for about half a mile, there are three substantial houses which occupy but a small portion of the frontage and which have been separately assessed. On the remainder of the land, which is about 270 acres in extent, there is one small but substantial house that has also been assessed separately. This land is planted with cocoanut trees and I understand there is rubber cultivation on the part remote from the road on the north side. The Cocoanut land, especially that part of it immediately north of the road and in the south east corner between the land and the sea, has scattered over it numerous small wooden huts and open sheds which have been erected by persons who have been referred to throughout the case as "squatters." They are not however "squatters" in the ordinary acceptation of the term as they are there with the permission of the owner. Neither can they properly be termed "tenants" for they have no right to any specific holdings on the land. They appear to be mere licensees from the owner who encourages them to settle on the land on account of the manure that the pigs and poultry kept by them afford to the cocoanut trees. They pay a trifling sum to the owner for permission to live on the land, no doubt to prevent them acquiring prescriptive rights. I am told there are about 150 of these huts and sheds on the whole Estate and they are mostly congregated in the localities I have mentioned.

The land adjoining the appellant's Estate is fairly continuously built on along the sea front, both up and beyond the Estate, and the houses are occupied by wealthy Chinese either as residence or as week-end resorts. Inland, on the Singapore side, the adjoining land was cut up a good many years ago and sold in small lots as prospective building sites. A good deal of this land is still unbuilt on but building is gradually extending towards the appellant's land from the neighbourhood of Tanjong Katong market which is fairly closely built over. There is no water supply to these or to the appellant's land except such as is obtainable from wells, the Municipal supply not extending at present beyond the Urban area.

Nearer to the town of Singapore and within the urban area there is a considerable quantity of land unbuilt upon. This for various reasons is less attractive than the appellant's land for building sites but it was admitted by the President of the Municipal Commissioners that if this land were to be at once fully developed for building purposes the demand for building sites on the appellant's land would be at present confined to the strip along the sea shore.

I have felt some difficulty in arriving at a satisfactory conclusion as to the meaning of the words in the Ordinance "suitable for building purposes or capable of being developed for such purposes."

Taken in their fullest sense they would embrace practically all land in the Colony not covered with water and I can hardly think so extensive a meaning can properly be given to them.

Mr. Page on behalf of the appellant contended that it means land suitable for building on or for development as a fair commercial speculation. The Solicitor General suggested that we should take the value of the land and consider that any land worth more than 2½ cents a foot or $1,000 an acre to be building land as opposed to agricultural land and further suggested that the words mean "land that is regarded by reasonable men, experts in the land market, as building land as opposed to agricultural land."

I do not think Mr. Page's reading is extensive enough for land is often attractive for building purposes and fully built on that no one

could reasonably expect to be commercially profitable if built on by way of a building scheme.

The Solicitor General's definition seems to me to be too indefinite, and to substitute the opinions of professional witnesses for the enactment of the Legislature, I have come to the conclusion that Mr. Page's reading must be supplemented by the reading suggested by Mr. Lornie in his evidence, namely that land would be suitable for building within the meaning of the Ordinance if it were such that were it put up for sale in small lots purchasers would be found for it who would buy with a view to either building on it at once themselves or to selling at a profit to others who would. I do not say that this is an exhaustive definition but it is sufficient for the purposes of this case.

I accept entirely the valuation of the land as given by Mr. Lornie. His long experience as Collector of Land Revenue and in other capacities in the Land Office of the Colony renders him perhaps more competent than any other person in the Colony to give an opinion on such a matter. Moreover Mr. Carpmael, the Municipal Assessor for the Urban District, who was called as a witness on behalf of the appellant, agrees that Mr. Lornie's valuation is a moderate one. I also accept Mr. Lornie's evidence that the land on the south side of the road and the 40 acres to the north of the road should be considered as building land and not as agricultural land merely, he tells me, and there is no one here more competent to judge as he, that in his opinion were this land sold in small lots people would buy it for building purposes and that some would start building straightaway. His evidence satisfies me that this land is "land suitable for building purposes or capable of being developed for such purposes" within the meaning of the Ordinance.

Mr. Lornie's evidence as to the value of the land is that the land on the south side of the road is worth on an average 20 cents per square foot and that the 40 acres, which is in his opinion building land, on the north side of the road, is worth on an average 8 cents per foot. This works out at a capital value of $8,712.00 per acre for the land south of the road and $3,614.80 per acre for the land on the north, and if he is correct that there are 60 acres to the south and 40 to the north suitable for building the tax on this will work out at $1,615 or $115 more than the amount of the assessment complained of. The objection is however taken on behalf of the appellant that much of this 100 acres does not come within the provisions of the Ordinance relating to the taxation of land suitable for building because it is already built on as it has the huts and sheds of the so called squatters on it. Mr. Carpmael agrees with this contention so far as the land on the north of the road and so far as some 22 acres on the south of the road is concerned.

I have no evidence as to the actual acreage covered by the huts and sheds themselves but if they were all put together they would occupy a very few acres. In some case the "squatters" have enclosed small gardens and compounds but they have clearly no right to these as against the owner of the Estate and I cannot regard these as being appurtenant to the buildings within the meaning of the Ordinance. Mr. Lornie's calculation of the 60 acres on the south of the road allows a margin of a few acres for these huts and this and the $115 margin on the amount of the assessment will fully allow for the diminution of acreage occasioned by the huts themselves. I have therefore come to the conclusion that the assessment is not excessive and that the appeal must be dismissed.

I have not overlooked the argument on behalf of the appellant that there is other land within the Municipal area and nearer to Singapore that is still undeveloped but I do not see that the existence of this undeveloped land can render the appellant's property not suitable for building purposes or not capable of development for such purposes.

*Appeal dismissed.*

Solicitors for the Appellant—*Allen & Gledhill.*

Solicitor-General for Respondent.

---

[ORIGINAL CIVIL JURISDICTION]

SHAW, C.J.

September 13, 1924.

## *RE* SHAIK ABUBAKAR BIN MOHAMED LAJAM Deceased.

[SINGAPORE ORIGINATING MOTION No. 8 of 1924.]

*Ordinance No. 3 (Wills) S. 13—revocation of will by subsequent marriage—Arab Mohamedan.*

So far as concerns immoveable property in the Colony the Will of an Arab Mohamedan is revoked by his subsequent marriage and is thereafter inoperative at least to that extent.

Originating Summons.

*Carver & Mundell,* for the Applicant, Labu, one of the lawful widows of the deceased.

*Robinson* for the Respondents, the executors of the Will of the deceased.

The facts and arguments sufficiently appear from the Judgment.

*Cur. Ad. Vult.*

**SHAW, C. J.**,—This is a motion calling upon the executors of one Shaik Abubakar bin Mohamed Lajam deceased to show cause why the probate of the will of the deceased, granted on